



# PHILIP MORRIS

U.S.A.

120 PARK AVENUE, NEW YORK, N.Y. 10017-5592 TELEPHONE (212) 680-5000

July 19, 1994

~~Mr. Ron Weber~~

~~Mr. Ron Weber  
President  
Ron Weber and Associates, Inc.  
200 Boston Post Road, Suite J  
Orange, Connecticut, 06477~~

Mr. Guy Parker  
President  
Telemark/USA Direct  
194 ANDAER RD.  
SPARTA, NJ 07871

Dear Mr. Weber:

This letter constitutes the agreement between ~~Ron Weber and Associates, Inc.~~ <sup>Telemark</sup>, a Connecticut corporation, with executive offices located at ~~200 Boston Post Road, Suite J, Orange, Connecticut, 06477~~ <sup>Telemark</sup> ("Weber") and Philip Morris Incorporated, a Virginia corporation with executive offices located at 120 Park Avenue, New York, New York 10017 ("Philip Morris"), pursuant to which ~~Weber~~ <sup>Telemark</sup> will, at Philip Morris' request, perform services in connection with Philip Morris' efforts to obtain the names and certified signatures of smokers twenty-one years of age and older.

1. Services

~~Weber~~ <sup>Telemark</sup> will:

(a) conduct telemarketing telephone calls ("Calls") for the number of hours requested by Philip Morris in connection with Philip Morris' Unavailable QUE and QUE Telemarketing Program (the "Program") according to the schedule set forth in Exhibit A. Throughout the Program, ~~Weber~~ <sup>Telemark</sup> will attempt to contact and survey smokers twenty-one years of age and older ("Smokers"). Philip Morris will supply ~~Weber~~ <sup>Telemark</sup> with sufficient names with telephone numbers to enable ~~Weber~~ <sup>Telemark</sup> to update and enhance no less than ~~300,000~~ <sup>196,000</sup> ~~Weber~~ <sup>Telemark</sup> will use its best efforts to meet the telemarketing Survey goals set forth in Exhibit A. ~~Weber~~ <sup>Telemark</sup> will also correct and update the information contained in Philip Morris' proprietary database and perform append, scripting, programming and other services reasonably requested by Philip Morris in connection with the Program;

(b) collect and store data for each Call, on magnetic tape, in a form satisfactory to Philip Morris ("Tape") and deliver Tapes to locations designated by

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Philip Morris on a bi-weekly basis and when otherwise requested by Philip Morris; and, ensure that all Smoker data captured from the telemarketing survey is retrievable upon request by Philip Morris or third parties designated by Philip Morris for a period of six months after the date of the Call;

(c) for each day that ~~Weber~~ <sup>telemark</sup> conducts Calls throughout the term of the Agreement, ~~Weber~~ <sup>telemark</sup> will compile statistics relating to the Calls and deliver the compilation, in a form satisfactory to Philip Morris and third parties designated by Philip Morris, to the locations designated by Philip Morris, within seventy-two hours, unless otherwise approved by Philip Morris or third parties designated by Philip Morris.

(d) train and provide reference materials and telephone scripts, which must be approved in advance by Philip Morris or third parties designated by Philip Morris, to ~~Weber~~ <sup>telemark</sup> representatives satisfactory to Philip Morris who will perform Calls ("Callers"). ~~Weber~~ <sup>telemark</sup> will hire, assume complete responsibility for and pay Callers. Callers will receive no less than two hours of training. At no time during the term of the Agreement will the Caller to supervisor ratio exceed 15 to 1. No Calls will be made after 9:00 p.m. or before 9:00 a.m., Smoker's local time.

(e) deliver to Philip Morris, or to a third party designated by Philip Morris, the names, addresses and complete survey data of Smokers, no more than 14 days after the completion of the Call.

(f) coordinate and cooperate with Kowal & Associates, Inc. and other third parties designated by Philip Morris, in performing services requested by Philip Morris; and

(g) generally perform all services in <sup>telemark</sup> accordance with the highest standards of ~~Weber's~~ <sup>telemark</sup> profession and to the satisfaction of Philip Morris.

## 2. Fees and Expenses

(a) In consideration for the services performed, Philip Morris will pay ~~Weber~~ <sup>telemark</sup> for each documentable hour that ~~Weber~~ <sup>telemark</sup> performs services satisfactory to Philip Morris, in accordance with the rate schedule set forth in Exhibit B. Average hours per month are defined as the total number of hours

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Guilty, This is  
From When  
Weber Appointed. Telemark  
Will Not Be Doing  
It. Do You Need  
This Sentence?

divided by the number of months calling is active, beginning July 1, 1994. Philip Morris will pay ~~Weber~~ <sup>Telemark</sup> within thirty days of Philip Morris' receipt of an itemized invoice for the services rendered. Total payments to ~~Weber~~ <sup>Telemark</sup> will not exceed ~~\$1,430,000~~ <sup>\$715,000</sup> without Philip Morris' prior written approval.

(b) Philip Morris will reimburse ~~Weber~~ <sup>Telemark</sup>, at cost, for reasonable, competitively priced expenses incurred in providing services, up to a maximum of \$75,000. Expenses included within a budget approved in writing by Philip Morris are presumptively reasonable and competitively priced. Total expenses are not to exceed the total of estimated expenses included in the budget approved by Philip Morris without Philip Morris' advance written approval. ~~Weber~~ <sup>Telemark</sup> may not apply funds allocated to one budget category to expenses incurred in another category without the prior approval of Philip Morris. Requests for reimbursement must be itemized. Expense items in excess of \$20 must be submitted with receipts. Expense items in excess of \$250 which are not included in a budget approved by Philip Morris must be approved in advance by Philip Morris.

Prior to the commencement of any additional project or service, ~~Weber~~ <sup>Telemark</sup> will submit to Philip Morris, for its approval, a written statement of ~~Weber's~~ <sup>Telemark's</sup> fee for the project and a detailed estimate of all expenses for the project. If and when Philip Morris requests additional services or modifies a project, ~~Weber's~~ <sup>Telemark's</sup> fee statement and expense estimate will be amended to reflect Philip Morris' request and re-submitted to Philip Morris for approval.

### 3. Records.

~~Weber~~ <sup>Telemark</sup>, its employees and agents will maintain detailed and accurate books and records of account with respect to services rendered for Philip Morris. Records of disbursements must indicate the check number, dollar amount, identity of the payee and reason for the expenditure. ~~Weber~~ <sup>Telemark</sup> will provide periodic reports as and when requested upon reasonable advance notice by Philip Morris. At the request of Philip Morris, Philip Morris or its designated agent may inspect, review and copy ~~Weber's~~ <sup>Telemark's</sup> books and records at reasonable times during normal business hours upon reasonable, advance notice to ~~Weber~~ <sup>Telemark</sup> and at the expense of Philip Morris.

### 4. Term and Termination.

The term of the Agreement commenced as of January 1, 1994 and will continue through the later of December 31, 1994 or ~~Weber's~~ <sup>Telemark's</sup> complete performance to the reasonable satisfaction of Philip Morris. Either party may terminate the Agreement, with or

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without cause, on ninety days advance written notice to the other party. If Philip Morris terminates the Agreement without cause, Philip Morris will have no liability to ~~Weber~~ after the notice of termination, with the exception of amounts due for services satisfactorily rendered prior to termination and disbursements or binding commitments to make disbursements properly incurred prior to termination. ~~Weber~~ will provide Philip Morris with a final accounting of outstanding obligations incurred prior to the notice of termination within thirty days of ~~Weber's~~ receipt of notice of termination.

#### 5. Ownership of Materials.

All material prepared or developed by ~~Weber~~ pursuant to the Agreement will become the property of Philip Morris and ~~Weber~~ hereby agrees to assign to Philip Morris any and all rights to copyright the material. ~~Weber~~ will not engage, or permit the creation of any copyrightable material for Philip Morris by, any person who is not a regular full time employee whose work is performed on ~~Weber's~~ business premises unless that person agrees to execute an assignment of any and all rights to copyright the material in a form acceptable to Philip Morris. Upon the acceptance by Philip Morris of any copyrightable material prepared by ~~Weber~~, ~~Weber~~ will, at the request of Philip Morris, assign all of its right title and interest in the material to Philip Morris and will execute an assignment in a form acceptable to Philip Morris.

#### 6. Confidentiality.

~~Weber~~, its employees and agents will hold strictly confidential the terms of the Agreement and all information and materials provided by Philip Morris to ~~Weber~~ or created by ~~Weber~~ in performing the Agreement. The information and material will remain the property of Philip Morris. ~~Weber~~ will not use or disclose the information unless authorized to do so in writing by Philip Morris. Upon termination or expiration of the Agreement, or within thirty days thereafter, ~~Weber~~ will return to Philip Morris all materials provided by Philip Morris to ~~Weber~~. ~~Weber's~~ obligation to maintain the confidentiality of all information and materials obtained from Philip Morris in connection with ~~Weber's~~ performance under the Agreement will survive the termination of the Agreement.

If at any time ~~Weber~~ is contacted by a third party, including the media, other than as required by the terms of the Agreement, concerning ~~Weber's~~ activities on behalf of Philip Morris, ~~Weber~~ will make no comment, immediately notify Philip Morris of the third party contact, and refer the third party to Philip Morris, Vice President, Corporate Affairs.

7. Exclusivity.

During the term of the Agreement, and for a period of six months thereafter, ~~Weber~~ <sup>Telemark</sup> will not, without the prior written consent of Philip Morris, engage in comparable activities for any company or entity whose business competes with any tobacco product of Philip Morris or the interests of which are adverse to those of Philip Morris.

8. Indemnity.

~~Weber~~ <sup>Telemark</sup> indemnifies and holds harmless Philip Morris, its affiliates and their officers, employees, directors and agents from all claims, liabilities, costs and expenses, including reasonable attorneys' fees, that arise from, or may be attributable to errors, omissions or fault of ~~Weber~~ <sup>Telemark</sup>. ~~Weber's~~ <sup>Telemark's</sup> obligation to indemnify and hold harmless will survive the termination of the Agreement.

9. Insurance.

~~Weber~~ <sup>Telemark</sup> Within ten days of the execution of the Agreement, ~~Weber~~ will deliver to Philip Morris certificates of insurance evidencing coverage for: (i) comprehensive general liability, including, participants' and contractual liability, with limits of no less than \$1,000,000 combined single limit for bodily injury, including personal injury and property damage; (ii) statutory worker's compensation coverage meeting all state and local requirements; and (iii) employer's liability, with limits of no less than \$500,000. The insurance certificates must name Philip Morris and its affiliates, agents, representatives, employees and assigns as additional insureds and must provide that Philip Morris will be provided at least thirty days' prior written notice of any cancellation or modification of such insurance. The insurance must be primary coverage without right of contribution from any other insurance of Philip Morris. Insurance maintained by Philip Morris is for the exclusive benefit of Philip Morris and will not inure to the benefit of ~~Weber~~.

~~Weber~~ <sup>Telemark</sup> ~~Weber~~ <sup>Telemark</sup> will procure comparable certificates of insurance from all subcontractors of ~~Weber~~ <sup>Telemark</sup> and the insurance certificates must name Philip Morris and its affiliates, agents, representatives, employees and assigns as additional insureds.

10. Independent Contractor.

~~Weber~~ <sup>Telemark</sup> ~~Weber~~ is and will at all times remain an independent contractor. Nothing contained in the Agreement shall be construed to create an association, partnership, joint venture or

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relation of principal and agent or employer and employee between Philip Morris and ~~Weber~~ or any of its employees or affiliates. Philip Morris will have no liability for any obligation incurred by ~~Weber~~, except as specifically provided in this Agreement.

Telemark

11. Miscellaneous.

(a) ~~Weber~~ will comply with all applicable laws and regulations relating to its activities hereunder, and will acquire and secure any permits and licenses and pay any fees necessary for the performance of its duties hereunder.

(b) ~~Weber~~ acknowledges that it is cognizant of the provisions of Title 15, Sections 1331 et seq. of the United States Code.

(c) This Agreement is the complete agreement between the parties, and supersedes any prior oral or written communication between the parties on the subject matter of this Agreement.

(d) The Agreement may not be amended except by a duly executed writing signed by Philip Morris. A waiver by either party of any of the terms and conditions of this Agreement, in one or more instances, shall not be deemed a general waiver or a waiver of any other term.

(e) The Agreement may not be assigned by either party without the prior written consent of the other, but the Agreement is binding upon any successors in interest.

(f) The Agreement, and all matters collateral to it, shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely in the State of New York.

(g) Any notices required or permitted to be given under the terms of the Agreement shall be in writing, and shall be deemed to be given when hand-delivered or sent by United States certified mail, return receipt requested, to the address of the receiving party as stated at the beginning of the Agreement, and if to ~~Weber~~ to the attention of: ~~Mr. Ron Weber~~, and if to Philip Morris, to the attention of Mr. James Vander Putten.

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If the foregoing accurately sets forth our Agreement, please signify your acceptance and agreement by signing the enclosed copy of this letter and returning it to the undersigned.

Very truly yours,

PHILIP MORRIS INCORPORATED

By: \_\_\_\_\_

Title: \_\_\_\_\_

ACCEPTED AND AGREED AS OF  
THE DATE OF THIS LETTER:

Telemark  
~~RON WEBER AND ASSOCIATES, INC.~~

By: \_\_\_\_\_

Title: \_\_\_\_\_

Taxpayer ID# 422310598

Filing Status: Corporation

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## EXHIBIT A

## Projected Telemarketing Hours - Telemarketing Program

January	-	0
February	-	0
March	-	0
April	-	0
May	-	0
June	-	0
July	-	0
August	-	<del>11,500</del>
September	-	<del>11,500</del> 7,000
October	-	<del>11,500</del> 7,000
November	-	<del>11,500</del> 7,000
December	-	<del>10,000</del> 7,000

TOTAL	<del>56,000</del>	28,000
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Month	Estimated Minimum TM Surveys	TM Survey Goal
January	0	0
February	0	0
March	0	0
April	0	0
May	0	0
June	0	0
July	0	0
August	<del>80,500</del>	<del>161,000</del>
September	<del>80,500</del> 49,000	<del>161,000</del> 98,000
October	<del>80,500</del> 49,000	<del>161,000</del> 98,000
November	<del>80,500</del> 49,000	<del>161,000</del> 98,000
December	<del>70,000</del> 49,000	<del>140,000</del> 98,000
TOTAL	<del>392,000</del> 196,000	<del>784,000</del> 392,000

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## EXHIBIT B

## Rate Schedule

1 - 2,999 average hours/month	\$28.50/hour
3,000 - 4,999 average hours/month	\$27.50/hour
5,000 - 7,999 average hours/month	\$26.75/hour
8,000 - 11,999 average hours/month	\$26.00/hour
12,000 - 16,999 average hours/month	\$25.50/hour
17,000+ average hours/month	\$25.00/hour
Training Hours	\$10.00/hour
Training Hours in excess of 4% of total monthly calling hours	No charge

## MONTHLY CALLING VOLUMES

Under 5,000 Hrs.	\$27.50/hour
5,000 - Under 10,000 Hrs.	\$26.50/hour
10,000 Hrs or more	\$25.50/hour

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